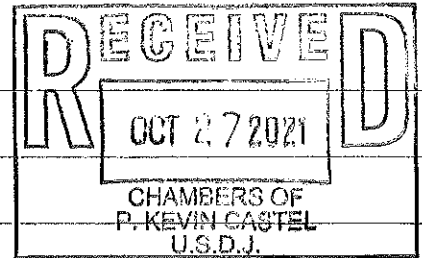


Honorable Judge Castel,



To: United States Clerk of Court
U.S. Clerk for S.D.N.Y.
500 Pearl St.
New York, N.Y. 10007

From: Nicholas Joseph 21721509
NYC Brooklyn

Date: October 10th, 2021

Case Number: 52 20-CR.-603

Under the penalty of perjury I submit this sworn affidavit in support of my Rule 29 and 33 motions. Here in I state the following facts.

• My trial attorney Marlon Kirton was ineffective for among other things stipulated to things over my objections and or without my consent

• My trial attorney Marlon Kirton was ineffective for among

other things, failing to go with my defense that the shooting was not gang related.

- The exhibits that were stipulated through my lawyer were not facts and had no relevance to my case. I do not understand how even stipulated to those exhibits without consulting with me, his client. Most of the exhibits were pictures of money from screenshots. The phone extraction expert said it on the stand. I am capable of being on social media, screenshot a post and repost it. Meaning its not a picture taken from the camera on my phone.
- The exhibits shown from my vouchered property from July, 2020 arrest stated that I had 5 (Gulton Bank) cards on my possession which was false. As I went through my discovery during trial I found a picture of the actual cards that was on my possession. They were 5 (cash app) cards. Cash app is not a bank and you cannot deposit checks or cash on those cards. So the government lied during closing argument.
- My trial attorney Marlon Kinton was ineffective for among other things, I expressed to him several times that I would like to plead guilty to Count 4 of my indictment.

- My trial attorney Marlon Hinton was ineffective for among other things, I told my lawyer and his assistant Emilee Shali that I would like to take the stand on my behalf, several times.
- I do not have any co-defendants. How can I have a RICO or a conspiracy charge without at least one or two co-defendants?
- All of the names that the government brought up as my "co-conspirators" were never charged or convicted of any bank fraud or violent acts towards any rival gang members. Nor were any of the acts the witness (Angel Arroyo) brought up were ever proven or charged to anyone. How can I have a RICO indictment with one Count and based off uncharged acts?
- The government references "670" as a gang or crew several times. "670" is an address and a Music Group with a legal LLC, which makes it a legal entity. That's the reason it is so relevant in my music lyrics. I can provide a copy of proof.
- In any of the exhibits I never referred to "Coke" as a crew or gang. I only referred to Castle Hill as "Coke Block" in memory of my friend Christian Hernandez who died there. A "block" is an area. Never

referred to as "CokeBoyz" or "Crew"

- There were no shootings on April 27th or victims, so on the 28th wasn't any retaliation.
- The victims mother of the April 28th, 2017 shooting stated she heard by rumor it was over a female.
- On the video of April 28th, 2017, of me in front of my building, you can see me exiting with my girlfriend at the time right before the shooting and see me talking to her before the shooting.
- Nobody saw any gangmembers running through or around the park. No gangmembers were on no camera footage.

This indictment is based on rap lyrics from public music videos that I am expressing myself about the environment I grew up around. Copying other rap celebrities hoping to get noticed and go viral. I am not rivals with anyone. On my discovery material, there a (2) different pictures on 2 different days of me with a member of monroe houses crew while in monroe houses. How can I be a war with them? I am not part of any criminal organization or gang related shooting. I have no bank accounts, property and still live with my

grandmother. The only time I personally posted money was from my settlement. The shooting took place because my girlfriend at the time had gotten into an altercation while I sent ~~her~~ her to buy marijuana for me. Me being young and not thinking and wanting to prove myself to my girlfriend I can protect her and made a mistake out of reaction. I never denied the shooting but it was not gang-related. I disclosed this information to my lawyer several times. If I went to shoot somebody I would've had the gun on me when I came out my building downstairs. The witness Christopher Cruz was locked up on a gang indictment from 2008 to 2014 I was 9-10 years old. I was then incarcerated from 2016 then from 2017 to 2019 June. C. Cruz was arrested 2019 May. We never had a conversation on social media or any pictures together. He also stated he doesn't even know me but knows I'm in a gang. Doesn't make any sense.

With all the reasons stated herein and the violation of my constitutional rights. Due to my trial attorneys erroneous performance I was wrongfully convicted. Absent the prosecutorial misconduct and trial attorneys deficient performance it's a highly ~~probable~~ probability that I would not have been found guilty of some if not all of the charges against me.

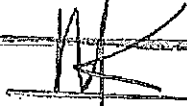
In furtherance of my letter, my constitutional rights were also violated due to the hinderance of my due process. I was placed in the OHU (Special Housing Unit) several times before trial and receive no disciplinary sanctions. I was not allowed to use the Law Library to research any legal material wh in the OHU. My property was lost by MTC Brooklyn and the U.S. Marshalls when I was moved to MCC New York for trial. All my personal property was never found, MTC also threw away my discovery flash drive when I arrived to MTC, in July. Also the day I recieved my verdict from the jury my attorney requested me to be put on suicide watch. Judge Cat granted the request, further hindering me by placing me in a cell, not allowed any personal property or a social call. I've been in the OHU since the day of my verdict and without disciplinary. I do not have my property or able to use a telephone. This supports my counsel being ineffective because I made an objection to the request while in court. I never made a suicidal statement, but my attorney did things his way instead for my best interest. My attorney did not let me know that I did have to have a jury trial either, I couldve had a judge trial which I would have rathered. I would also like to request a evidential hearing due to the misconduct of District Attorney Andrew Chan in case number

16-CR-281, a 2019 case of Brandon Green and
Latique Johnson (prosecutorial misconduct. Thank
You.

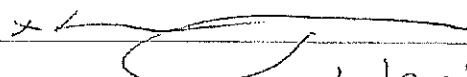
Sincerely,
Nicholas Joseph



Metropolitan Detention Center
P.O. Box 329001
Brooklyn, NY 11232

 11/24/21

Authorized by the Act of June 7, 1953
to Administer Oaths 18 U.S.C. 3603

 10/20/21